

**State of New York**  
**Commission on Judicial Conduct**

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

MARGARET TAYLOR,

a Judge of the Civil Court of the  
City of New York, New York County.

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**Determination**

BEFORE: Mrs. Gene Robb, Chairwoman  
David Bromberg, Esq.  
E. Garrett Cleary, Esq.  
Dolores DelBello  
Michael M. Kirsch, Esq.  
Victor A. Kovner, Esq.  
Honorable Isaac Rubin  
Honorable Felice K. Shea

APPEARANCES:

Gerald Stern (Alan W. Friedberg,  
Of Counsel) for the Commission

Julien, Schlesinger & Finz (By  
Alfred S. Julien; David Weprin,  
Of Counsel) for Respondent

The respondent, Margaret Taylor, a judge of the Civil Court of the City of New York, New York County, was served with a Formal Written Complaint dated March 3, 1981, alleging misconduct with respect to her actions toward attorneys in two cases in October 1979. Respondent filed an answer dated April 13, 1981.

By order dated April 23, 1981, the Commission designated

the Honorable Harold A. Felix referee to hear and report proposed findings of fact and conclusions of law. The hearing was held on June 2, 3, 10 and 11, 1981, and the referee filed his report on August 28, 1981.

By motion dated September 25, 1981, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be censured. Respondent opposed the motion and cross moved to dismiss the Formal Written Complaint. The Commission heard oral argument on the motions on November 24, 1981, thereafter considered the record of the proceeding and made the findings of fact herein.

With respect to Charge I, the Commission makes the following findings of fact:

1. Respondent has been a judge of the New York City Civil Court since January 1, 1977. In October 1979, respondent was assigned to Part XII, a Conference and Assignment Part of the Civil Court. A rule of the Civil Court required the appearance in that part by attorneys or their representatives who were authorized to settle, make binding concessions or otherwise dispose of matters before the court. Cases not settled would be assigned for immediate trial.

2. On October 17, 1979, the case of Schwartz v. Republic Insurance Company came before respondent, having been adjourned from a previous date. The plaintiff was represented by Lawrence Anderson and the defendant by Roberta Tarshis.

3. In conference with counsel on the Schwartz case, respondent was advised that the defendant company disputed the amounts

sought by the plaintiff and that an issue of fraud, possibly vitiating the underlying insurance policy, might be involved in the case.

4. In the conference with respondent, Ms. Tarshis stated that the defendant company demanded a jury trial. Respondent sought to dissuade Ms. Tarshis from the jury demand. Respondent told Ms. Tarshis that, notwithstanding the right to demand a jury trial, the goal of preserving the jury system would not be enhanced by jurors (i) who were reluctant to sit on long, detailed accounting cases such as the Schwartz case and (ii) who publicly voiced their displeasure at such assignments.

5. In seeking to persuade Ms. Tarshis to waive the jury, respondent warned Ms. Tarshis that unless there were such a waiver, Ms. Tarshis would be forced to sit in court until the jury was waived.

6. In the conference with opposing counsel, respondent was made aware that both sides were ready for trial in the Schwartz case. In response to an inquiry from respondent, plaintiff's counsel Mr. Anderson said a settlement was not possible because of the defendant company's position. Thereafter Ms. Tarshis undertook to call her client to ascertain whether it would waive a jury, notwithstanding its previously asserted position to the contrary. The matter was adjourned to 9:30AM the next day.

7. On October 18, 1979, both Ms. Tarshis and Mr. Anderson were present in court and ready for trial at 9:30AM. At 2:30PM, Ms. Tarshis approached the bench and asked that the Schwartz case be

called. Respondent, aware that the jury demand had not been waived, directed Ms. Tarshis to sit down.

8. On at least two occasions on the afternoon of October 18, 1979, respondent announced the availability of trial parts and asked if any attorneys were present who were ready for trial or to select a jury. On both occasions Ms. Tarshis and Mr. Anderson stood up, announced their readiness and were told by respondent to resume their seats. In a colloquy later that afternoon, respondent told Ms. Tarshis that the Schwartz case would not be called until her client waived a jury trial.

9. At approximately 3:30PM on October 18, 1979, after Ms. Tarshis and Mr. Anderson again indicated their readiness to pick a jury, respondent stated that she did not wish them to select a jury. Respondent thereupon excused Mr. Anderson from court and directed Ms. Tarshis to remain seated.

10. After respondent excused Mr. Anderson, Ms. Tarshis requested that a court reporter record the incident. Her request was not granted. Ms. Tarshis was excused by respondent approximately five minutes after Mr. Anderson had been excused.

11. At approximately 3:45PM on October 18, 1979, Mr. Anderson and Ms. Tarshis went to the office of Judge Eugene Wolin, Judge-In-Charge of the Civil Court, New York County, to discuss the foregoing events in the Schwartz case. At the conclusion of this meeting, Ms. Tarshis returned to respondent's court and was informed by respondent that the case had been adjourned to 9:30AM the next day.

12. On October 19, 1979, Ms. Tarshis reported early to respondent's court and proceeded to respondent's chambers, where she expressed

her concern about the foregoing events in the Schwartz case. Ms. Tarshis told respondent she was upset about the matter. Respondent assured Ms. Tarshis that there was nothing personal in her actions toward Ms. Tarshis and that she was acting to preserve the jury system. Respondent apologized to Ms. Tarshis for any inconvenience or difficulty Ms. Tarshis may have encountered.

13. On October 19, 1979, at the opening of court, respondent apologized in open court to Ms. Tarshis and adjourned the proceedings in the Schwartz case to the November term of court before another judge. The Schwartz case was settled on February 4, 1980.

With respect to Charge II, the Commission makes the following findings of fact:

14. On October 11, 1979, at approximately 2:00PM, the case of Giordano v. Allstate Insurance Co. was called in respondent's part. The defendant was represented by James P. McCarthy, an attorney admitted to the bar in 1963. The plaintiff was represented by the firm of Weg, Myers, Jacobson & Sheer.

15. When the Giordano case was called, Mr. McCarthy approached the bench and advised respondent that he had a complaint with regard to the order in which the court clerks were calling the cases to be heard. Mr. McCarthy advised respondent that certain lawyers had their cases called shortly after they arrived in court, ahead of others who had been waiting in court for up to several hours. Mr. McCarthy and respondent discussed the court's calendar procedure in general.

16. While respondent and Mr. McCarthy were discussing court procedures, Glen Jacobson approached the bench. Mr. Jacobson was a law clerk for the plaintiff's counsel. He had graduated from

law school but had not yet been admitted to the bar. Mr. Jacobson handed respondent an affirmation which he designated as one of engagement made by plaintiff's counsel, in support of an application for an adjournment. Respondent threw the affirmation back at Mr. Jacobson and stated the case was ready for trial. Mr. McCarthy stated that it appeared respondent denied Mr. Jacobson's application because Mr. McCarthy' criticized court procedures, whereupon respondent left the courtroom.

17. At approximately 2:15PM on October 11, 1979, Mr. McCarthy, Mr. Jacobson and two other attorneys who had been in court and observed the foregoing events, went to the office of the Honorable Eugene Wolin, Judge-In-Charge of the Civil Court, New York County, to inform him of respondent's action. Judge Wolin telephoned respondent and told her there were attorneys in his office who were complaining about her actions in the Giordano case. Respondent told Judge Wolin that she would return to her courtroom shortly.

18. At approximately 2:20PM, respondent returned to the courtroom and stated that the Giordano case would not be heard until all other cases had been heard.

19. At approximately 3:30PM on October 11, 1979, after all the other cases had been heard, respondent called the Giordano case and adjourned it to the following day.

20. Respondent acted in the manner described on the afternoon of October 11, 1979, because of her anger at the complaint made to Judge Wolin by Mr. McCarthy and Mr. Jacobson about her procedure.

21. On October 12, 1979, respondent directed her court clerks to call the Giordano case after all the other cases had been

heard. At 9:45AM, all the parties in the Giordano case were present in court. At approximately 12:30PM, the Giordano case was called. Respondent denied the plaintiff's request for an adjournment and subsequently granted the plaintiff's request to have the case marked off the calendar.

22. Respondent acted in the manner described on October 12, 1979, because of her anger at the complaint made the previous day to Judge Wolin by Mr. McCarthy and Mr. Jacobson about her procedure.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2(a) and 33.3(a)(1-5) of the Rules Governing Judicial Conduct and Canons 1, 2A and 3A(1-5) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained and respondent's misconduct is established, except that paragraph 12 of Charge II is not sustained and therefore is dismissed.

A judge is obliged, inter alia, to be patient, dignified and courteous to those who appear before her in her official capacity, to accord parties and their counsel full right to be heard according to law, and to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary (Sections 33.2 and 33.3 of the Rules). Respondent's conduct did not comport with these standards.

By refusing to call and by otherwise impeding the prompt disposition of the Giordano case, respondent was, in essence, retaliating against the attorneys in that case for their having complained about respondent's court procedures to the administrative

judge. Such a deliberate manipulation of the court calendar constitutes an abuse of judicial authority which impaired the rights of the parties, the dignity of the proceedings and the public's confidence in the integrity of the judiciary.

By forcing defendant's counsel in the Schwartz case to sit in court to compel a waiver of a jury trial, even though both sides were ready to select a jury and trial parts were available, respondent in essence (i) punished a lawyer whose client did not wish to pursue a settlement and (ii) tried to coerce the lawyer to waive a right she had repeatedly asserted.

The administrative directives and pressures on a judge to try to settle cases in busy courts such as respondent's do not excuse the abuses of discretion and decorum exhibited by respondent in the matters herein.

The Commission notes that respondent apologized to one of the lawyers she had mistreated. The Commission also notes that the apology followed complaints by lawyers to the administrative judge about respondent's conduct.

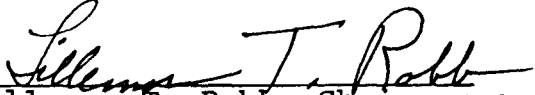
By reason of the foregoing, the Commission, by vote of 6 to 2, determines that respondent should be admonished. Mr. Kovner and Judge Shea dissent as to sanction and vote that the appropriate disposition is a letter of dismissal and caution. Mr. Kovner also dissents as to Charge II (the Giordano matter) and votes that the charge be dismissed. Mr. Kovner files herewith his dissenting opinion.



CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: January 13, 1982

  
Lillemor T. Robb, Chairwoman  
New York State Commission on  
Judicial Conduct